

REMARKS

This Supplemental Response has been submitted with a request for an interview with the Examiner. It is noted that this Supplemental Response is a proposed response, and thus, should not be officially entered into the file of the instant application.

New claims 44-46 have been added. Claims 27-29 and 34 were amended in the previous Response. Claim 33 was cancelled in the previous Response. Claims 1-26 were cancelled in a Preliminary Amendment. Claims 35-41 have been withdrawn from consideration. Claims 27-32, 34, and 42-46 are presented for the Examiner's review and consideration. Applicants believe that the claim amendments and accompanying remarks herein serve to clarify the present invention and are independent of patentability. No new matter has been added.

Telephone Conferences with the Examiner

Applicants thank the Examiner for courtesies extended to Applicants' representatives, Paul D. Bianco and Katharine Davis Wong, in the telephone conferences of November 12 and 14, 2008.

On November 12, 2008, the Examiner indicated he was prepared to allow the case (subject to the USPTO quality review in the pre-allowance conference) if claim 27 was cancelled. The Examiner stated that, without a sequence identification number, claim 27 reads on the prior art, for example, Kasof et al. *The Journal of Biological Chemistry* 276(5):3238-3246 (2001).

On November 14, 2008, the Examiner indicated that, since the last Office Action was non-final, he would consider amendments to claim 27 prior to issuing another Office Action if Applicants submit a Supplemental Response (supplemental to Response filed on August 28, 2008) presenting the proposed amendments.

Proposed Amendments to the Claims

No new matter has been added by the addition of new claims 44-46.

New claim 44 discloses an isolated livin-derived peptide which is a cleavage product of

one of p30-Livin α and p28-Livin β . This subject matter is supported in the specification as originally filed. *See* paragraph [0093] of the published application (page 17, 1st paragraph of the application as filed).

New claim 45 discloses an isolated or synthetic livin-derived peptide, selected from one of p30-Livin α and p28-Livin β having pro-apoptotic activity. This subject matter is supported in the specification as originally filed. *See* paragraphs [0070] and [0093] of the published application (page 10, single sentence paragraph and page 17, 1st paragraph of the application as filed).

New claim 46 discloses an isolated livin-derived peptide, selected from one of p30-Livin α and p28-Livin β , each being a C-terminal cleavage subunit. This subject matter is supported in the specification as originally filed. *See* Example 5 at paragraph [0144] of the published application (pages 32-33 of the application as filed).

Applicants respectfully submit that any of new claims 44-46 present an acceptable alternative to claim 27.

Kasof

With reference to the prior art noted by the Examiner (Kasof et al. *The Journal of Biological Chemistry* 276(5):3238-3246 2001), Applicants respectfully submit that Kasof et al. is not quite on point with regard to the instant invention since Kasof describes a full length livin, corresponding to Livin α , and three synthetically produced fragments, delta mutants deltaN154, deltaC86, and 86-154. *See* page 3239, Experimental Procedures, line 12, and page 3243, first column. None of the products disclosed are equivalent to the peptides of the invention, and most importantly, Kasof does not disclose Livin β .